

DAVID BURCHARD
CHAPTER 13 TRUSTEE
P.O. BOX 8059
FOSTER CITY, CA 94404
(650) 345-7801 FAX (650) 345-1514
(707) 544-5500 FAX (707) 544-0475

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

O'SULLIVAN, MAUREEN
24283 BUCKEYE PLACE
WILLITS, CA 95490

Debtor(s)

Chapter 13
Case No: 10-1-2277 AJ13
Date: June 22, 2011
Time: 1:30 PM
Ctvm: U.S. Bankruptcy Court
99 South E. Street
Santa Rosa, CA 95404

**MOTION OF CHAPTER 13 TRUSTEE, DAVID BURCHARD,
TO DISMISS CASE PRIOR TO CONFIRMATION**

TO: THE ABOVE-NAMED DEBTOR(S) AND TO DEBTOR(S)' ATTORNEY OF RECORD HEREIN:

The Chapter 13 Trustee, DAVID BURCHARD, moves the Court for an order, dismissing this case for cause(s) for the reasons set forth below.

1. This Court has jurisdiction over this matter pursuant to Federal Rules of Bankruptcy Procedure 9013 and 9014, and Bankruptcy Local Rules 9013-1 and 9014-1. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).
2. This Motion is based upon all documents and records on file, together with this Motion, Declaration and any such additional documents, records and evidence which can be presented.
3. Debtor(s) filed for bankruptcy under Chapter 13 on June 16, 2010.
4. This motion for dismissal is made for cause pursuant to 11 U.S.C. §1307(c)(1).
5. Cause to dismiss this case exists as it is in the best interests of creditors and the bankruptcy estate. The Trustee therefore requests the Court enter an order dismissing this case.

If you wish to oppose dismissal of this Chapter 13 case, you or your attorney must file a timely opposition to this motion no later than fourteen (14) days before the hearing set forth in the accompanying Notice of Motion. You or your attorney must also appear at the hearing date listed in the notice and present argument in opposition to this motion.

DATED: May 13, 2011

DAVID BURCHARD
DAVID BURCHARD, Chapter 13 Trustee

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UNITED STATES BANKRUPTCY COURT
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In re:

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**DECLARATION IN SUPPORT OF CHAPTER 13 TRUSTEE,
DAVID BURCHARD'S, MOTION TO DISMISS CASE
PRIOR TO CONFIRMATION
AND CERTIFICATE OF MAILING**

I am the custodian and/or keeper of the business records referenced herein and, as such, I am qualified to certify the authenticity thereof. Additionally, I have personal knowledge of the matters stated in the Declaration. If called upon as a witness, I could, and would, competently testify to the facts contained herein.

After reviewing the books, records and files of the above-referenced Debtor(s), I make the following Declarations:

1. Debtor(s) filed the instant bankruptcy petition on June 16, 2010.
2. As of the date hereof, the following fact(s) exists as cause for dismissal:

_____	Failure to make required payments to the Trustee as due under Chapter 13 Plan.
_____	Failure to attend Section 341 Meeting of Creditors scheduled on ____.
<u> X </u>	Failure to respond to Trustee's requests made at least 30 days prior – see attachment.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on May 13, 2011 in Foster City, California.

Dated: May 13, 2011

DAVID BURCHARD

DAVID BURCHARD, Chapter 13 Trustee

CERTIFICATE OF MAILING

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 393 Vintage Park Drive, Suite #150, Foster City, CA. On the date set forth below, I served a true and correct copy of the **Motion** of Chapter 13 Trustee, David Burchard, to Dismiss Case Prior to Confirmation, the **Declaration** in Support of Chapter 13 Trustee, David Burchard's Motion to Dismiss Case Prior to Confirmation and **Certificate of Mailing**, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

O'SULLIVAN, MAUREEN
24283 BUCKEYE PLACE
WILLITS, CA 95490

DANIEL B. BECK
BECK LAW, PC
2681 CLEVELAND AVE.,
SANTA ROSA, CA 95403

Dated: May 13, 2011

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DAVID BURCHARD
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION**

In re:

O'SULLIVAN, MAUREEN
24283 BUCKEYE PLACE
WILLITS, CA 95490

Debtor(s)

Case No.: 10-1-2277 AJ13
Chapter 13

**ATTACHMENT TO TRUSTEE'S MOTION TO
DISMISS, PRE-CONFIRMATION**

The Trustee made the following requests at least 30 days prior to the filing date of the instant motion:

1. At the 341 Meeting of Creditors on August 2, 2010, Debtor stated that she was in negotiations with her mortgage lender, Penny Mac to modify her loan. The instant case was filed on June 16, 2010 and eleven months have elapsed since the Meeting of Creditors. No progress has been made to date. Penny Mac has filed a secured proof of claim for pre-petition arrears in the amount of \$24,643.49, and pre-petition arrears are not provided for in the plan. The Trustee requested that either the loan modification be resolved, or that the mortgage loan be brought current by payment through the plan or stipulation. Debtor has failed to resolve this issue.